

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MAKENZIE B PAULY, et al.,

Plaintiffs,

v.

STANFORD HEALTH CARE,

Defendant.

Case No. [18-cv-05387-SI](#)

**ORDER GRANTING PLAINTIFFS'  
PETITION TO APPEAL AND  
REQUEST FOR A STAY PENDING  
THE APPEAL**

Re: Dkt. Nos. 34, 35

On April 19, 2019, this Court granted in part and denied in part defendant's motion to dismiss. Dkt. No. 32. Specifically, the Court ordered as follows:

First - Fifth Causes of Action (EMTALA – Fazia Pauly & Makenzie Pauly)

--GRANTED with prejudice as to Fazia Pauly

--DENIED as to Makenzie Pauly

Sixth Cause of Action (Negligent Infliction of Emotional Distress – Makenzie Pauly)

--GRANTED with prejudice

Seventh - Ninth Causes of Action (NIED and IIED – Fazia Pauly)

--GRANTED with prejudice

Tenth Cause of Action (Abuse of Process – Fazia Pauly & Makenzie Pauly)

--GRANTED with prejudice as to Fazia Pauly

--GRANTED without prejudice as to Makenzie Pauly

In sum, all of Faiza Pauly's claims were dismissed with prejudice and the only claims that survived were Makenzie Pauly's first -fifth causes of action.

1 On May 3, 2019, plaintiffs sought leave of this Court to file an appeal with the Ninth Circuit  
2 pursuant to 28 U.S.C. §1292(b).<sup>1</sup> Plaintiff's petition seeks review of this Court's order on the motion  
3 to dismiss. Plaintiff also filed a motion to stay the matter pending the appeal. Dkt. Nos. 34, 35.

4 The Court agrees with plaintiffs that Ninth Circuit review will materially advance the  
5 ultimate termination of the litigation and hereby GRANTS both plaintiffs' motion for permission to  
6 appeal and certifies the matter pursuant to 28 U.S.C. §1292(b).

7 The Court also GRANTS the motion to stay.<sup>2</sup>

8  
9  
10 **IT IS SO ORDERED.**

11 Dated: May 20, 2019



SUSAN ILLSTON  
United States District Judge

12  
13  
14  
15  
16  
17  
18  
19  
20  
21 <sup>1</sup> 28 U.S.C. §1292(b) states:

22 When a district judge, in making in a civil action an order not otherwise appealable  
23 under this section, shall be of the opinion that such order involves a controlling  
24 question of law as to which there is substantial ground for difference of opinion and  
25 that an immediate appeal from the order may materially advance the ultimate  
26 termination of the litigation, he shall so state in writing in such order. The Court of  
27 Appeals which would have jurisdiction of an appeal of such action may thereupon,  
28 in its discretion, permit an appeal to be taken from such order, if application is made  
to it within ten days after the entry of the order: Provided, however, That application  
for an appeal hereunder shall not stay proceedings in the district court unless the  
district judge or the Court of Appeals or a judge thereof shall so order.

<sup>2</sup> While defendant has not commented on plaintiff's appeal, defendant stated it does not  
oppose a stay in the event an appeal goes forward. Dkt. No. 38 at 3 (CMC Statement).